under the Federal Employers' Liability Act. At the trial the Railroad requested a directed verdict on the ground that there was no evidence of negligence on its part. This request was refused; the case was submitted to the jury under instructions, some of which were objected to; and the verdict was for the plaintiff. Upon appeal from the judgment entered thereon the Supreme Court of Mississippi refused to consider the question of sufficiency of the evidence of negligence; and affirmed the judgment on the ground that the so-called "Prima Facie Act" of Mississippi (§ 1985 of the Code of 1906, as amended by c. 215, Laws 1912, p. 290), as to which the trial court had given no instruction, applied and relieved the plaintiff of the burden of establishing negligence. 115 Mississippi, 343. The case comes here by writ of error under § 237 of the Judicial Code, as amended by the Act of September 6, 1916, c. 448, 39 Stat. 726.

Since the decision below, this court has decided that the Mississippi "Prima Facie Act" cannot be applied to suits under the Federal Employers' Liability Act, *New Orleans & Northeastern R. R. Co.* v. *Harris*, 247 U. S. 367; and the Supreme Court of Mississippi now recognizes this rule. *New Orleans & Northeastern R. R. Co.* v. *Hanna*, 78 So. Rep. 953. The administratrix contends that, as the trial court did not give any instruction concerning the "Prima Facie Act," the error of the Supreme Court in resting its decision on that statute should not prevent an affirmance of the judgment below, because the Railroad was not prejuduced by the error.

It is true generally in cases coming from lower federal courts that the rendering of an erroneous decision on a particular question, *Fidelity & Deposit Co.* v. *Courtney*, 186 U. S. 342, 351; *West* v. *Camden*, 135 U. S. 507, 521; or the assignment by the lower court of an erroneous reason for a right decision; *Seaboard Air Line Ry.* v. *Moore*, 228 U. S. 433, 435; *United States* v. *One Distillery*,

174 U. S. 149, 151; will not entitle the complaining party to reversal, if it is clear that his rights were not prejudiced thereby. And this is likewise true of cases coming from state courts. *Chicago, Rock Island & Pacific Ry. Co.* v. *Wright*, 239 U. S. 548, 551; *New York, Philadelphia & Norfolk R. R. Co.* v. *Peninsula Exchange*, 240 U. S. 34, 41–42. See *Murdock* v. *City of Memphis*, 20 Wall. 590. Whether the case comes from a state court or a federal court, this court will, for the purpose of determining whether the error found may have been prejudicial, examine the whole record; state questions being left to the decision of the state court in cases coming here from those courts.

But we cannot say here that the rights of the Railroad were not prejudiced by the error of the Supreme Court of Mississippi. It may be, as contended by the administratrix, that there was sufficient evidence of negligence to go to the jury, and that the general instructions concerning negligence were proper. But the trial court also instructed the jury that "It was the absolute duty of the defendant to furnish the deceased with a safe place to perform the duties incident to his employment." It is clear that, under the circumstances of this case, the duty was not an absolute one; there was merely a duty to use reasonable care. *Chicago & Northwestern Ry. Co.* v. *Bower*, 241 U. S. 470; *Seaboard Air Line Ry.* v. *Horton*, 233 U. S. 492; *Choctaw, Oklahoma & Gulf R. R. Co.* v. *Tennessee*, 191 U. S. 326, 331. As examination of this record does not convince us that the admitted error was harmless, the judgment of the Supreme Court of Mississippi is reversed. The questions presented being properly here on writ of error, the petition for a writ of certiorari is denied.

Reversed.